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June 14, 2019

District Judge Allyne R. Ross
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: 1:18-cv-06409-ARR-RLM
Sarr v. BEF Foods, Inc.

Dear District Judge Ross:

This office represents the plaintiff in the above action. On June 7, 2019, defendant filed a letter seeking a pre-motion conference in anticipation of moving to dismiss and/or strike allegations of the complaint. Fed. R. Civ. P. 12(b)(1), (b)(6), (f). ECF No. 8. In accordance with your Honor's Individual Practices and Rules ("Individual Rules"), plaintiff is required to serve and file a letter response "within seven (7) business days from service of the pre-motion letter." Section III (A).

Your Honor's Individual Rules specify that "a pre-motion letter requesting permission to file a motion under [Rules 12] shall be considered the equivalent of the motion itself." As such, plaintiff will "amend its pleading once as a matter of course" within 21 days "after service of a motion under Rule 12(b)." Fed. R. Civ. P. 15(a)(1)(B); *Martinez v. LVNV Funding, LLC*, No. 14-cv-00677, 2016 WL 5719718, at *3 (E.D.N.Y. Sept. 30, 2016); *M.E.S., Inc. v. Liberty Mut. Sur. Group.*, No. 10-cv-0798, 2014 WL 46622 (E.D.N.Y. Jan. 6, 2014), *2 (noting that a plaintiff's amendment as of right in response to defendant's pre-motion letter seeking dismissal "allow[s] for the more efficient use of the Court's time and resources because the Court need only meet with the Parties once...and the need for the motion may be obviated if the amended pleading deals with Defendants' concerns.").

Plaintiff will file the first amended complaint ("FAC") on or before Monday, July 1, 2019, 21 days after defendant's letter-motion was served Fed. R. Civ. P. 6(a)(1)(A), (excluding "the day of the event that triggers the period") 6(a)(1)(C) ("include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday."); Fed. R. Civ. P. 15(a)(1)(B). Thank you.

Respectfully submitted,

/s/ Spencer Sheehan
Spencer Sheehan

Certificate of Service

I certify that on June 14, 2019, I served the foregoing by the method below to the persons or entities indicated, at their last known address of record (blank where not applicable).

	CM/ECF	First-Class Mail	Email
<u>Defendant's Counsel</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

/s/ Spencer Sheehan
Spencer Sheehan